

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISIONUnited States District Court  
Southern District of Texas

OCT 27 2017

Robert Alan Fratta,

X

Petitioner

X

VS.

X

CIVIL ACTION NO. 4:13-CV-03438

Lorie Davis,

X

Respondent

X

David J. Bradley, Clerk of Court

MOTION TO APPOINT REPLACEMENT CO-COUNSEL  
(or ORDER CURRENT COUNSEL TO FILE THIS MOTION)

On 9/25/17, Petitioner "Fratta" received a visit from his attorney James Rytting. During that visit - Rytting informed Fratta that then co-counsel Stephen Randall was going to withdraw. (See Fratta's Motion for Relief filed 10/16/17, p.1). That was the first Fratta heard about it. Randall never wrote or visited Fratta to inform him or discuss it. Fratta told Rytting he was fine with Randall withdrawing since Fratta felt Randall wasn't doing anything anyway, but, Fratta made it **clear** to Rytting that he wanted **replacement co-counsel** due to Rytting being too busy to handle Fratta's case effectively by himself. On 9/27/17 Fratta started writing attorneys - asking them to be co-counsel with Rytting and to contact him or Randall to request the appointment along with Randall's withdrawal. (See Polunsky Unit mailroom records for Fratta's letters to CJA List attorneys Megan Elizabeth Smith, Casie Gotro, Michael DeGeurin Jr, and Nicole DeBorde, plus Paul Mason). Today, 10/23/17, Fratta received a copy of this Court's granting of Randall's motion to withdraw, but no replacement has been ordered.

Since neither Rytting nor Randall requested the appointment of new co-counsel as Fratta requested, and since neither attorney filed for relief of the 9/18/17 denials under FRCP 59 or 60, Fratta has no option left but to once again file pro se to ask the Court to appoint replacement co-counsel of either

Megan Elizabeth Smith, Casie Gotro, Michael DeGeurin Jr, or Nicole DeBorde, since Fratta has no conflict with any of them.

Rytting is too busy to be effective by himself - as is evident by his not filing under FRCP 59 as he told Fratta he would, not filing this motion for Fratta, and submitting only a 2 sentence request for COA to the 5th Circuit. This is a Death Penalty case and Fratta has a right to **more than one attorney** under 18 USC § 3599 "throughout **every** subsequent stage of available judicial proceedings." The CJA Guidelines urge the appointment of: "**at least 2 attorneys**" in capital cases.

Should this Court not wish to accept this motion as pro se, then in the alternative, Fratta requests this Court to order Rytting to file this motion on his behalf right away.

Submitted by:



Robert Alan Fratta  
Polunsky Unit, #999189  
3872 FM 350 South  
Livingston, TX 77351

Signed: 10/23/17

Mailed: 10/24/17

Dear Clerk,

10/23/17 (mailed 10/24/17)

Enclosed is my motion to appoint replacement co-counsel. Would you please scan & file it & present it to Judge Harmon to hopefully take one of the requested actions therein?

Thank you.

Sincerely,



Robert Alan Fratta

Cause No. 4:13-cv-03438

**U.S. District Court  
Southern District of Texas**

**OCT 27 2017**

**David J. Bradley, Clerk of Court**

LEGAL

515 Rusk St.  
Houston, TX 77002

State of Texas

**DAVID L. BRADLEY, Clerk of Court**

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PEACE

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1. The first step is to identify the problem or goal. This involves understanding the current situation and what needs to be achieved.